

CHAPTER 34

RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN
ELECTION AND WITHDRAWALS3401 ELECTION340101. General Provisions

A. Effective November 1, 1953, elections under the USCOA had to be signed, witnessed, and submitted to the appropriate official before completion of 18 years of service for pay purposes. A change to a previous election did not become effective until 5 years after the date of its execution. If a member retired before the expiration of 5 years, the terms of the most recent valid election more than 5 years old became effective. A previous election could be revoked but did not become effective for 5 years, and if a member retired in the meantime, the revocation had no effect. Under options 1, 2, and 3, the premiums paid from retired pay continued for the retiree's life even if beneficiaries became ineligible through age, divorce, or death. However, option 4 combined with one of those options provided that no further deductions be made from retired pay after the loss of all eligible beneficiaries. Dependents acquired after retirement were not eligible to become beneficiaries. Revocations which became effective were irrevocable. Annuities payable were based on one-half, one-quarter, or one-eighth of the reduced retired pay. Reduced retired pay was the remainder after deduction for the cost of the USCOA. A member could elect separate options to provide for a spouse and children; however, the combined annuities could not exceed one-half of the member's retired pay.

B. Effective October 4, 1961, the name of the program was changed from USCOA to the Retired Serviceman's Family Protection Plan (RSFPP). Cost Tables changed for all retirements on or after that date. The reduction for options 3 and 4 became the same as the reduction for option 1 with 4. The age of the youngest child had no effect on the reduction for option 3 if it was combined with option 4. Retired members were permitted to withdraw from the RSFPP where continued participation would cause extreme hardship and violate equity and good conscience. A change to, or revocation of, a previous election became effective 3 years after execution of the revocation or change. If a member was granted retired pay before the 3-year period ended, the change or revocation had no effect and the prior election remained valid. A revocation is superseded by an election change.

C. Effective November 1, 1968, a withdrawal could be requested any time and became effective on the first day of the seventh month after the application is made. The amount of the annuity could be reduced as low as one-eighth of retired pay or \$25, whichever is greater. The reduction became effective on the first day of the seventh month after application is made. Elections were made before completing 19 years of service. If the election was made after completing 19 years, it became effective 2 years before date of retirement. Changes or revocations to prior elections became effective 2 years after execution of change or revocation. Members who did not include option 4 in their initial elections had until September 1, 1969, to purchase this option.

D. Effective November 1, 1968, the eligibility age of a surviving child was extended to age 23 when the child was pursuing a full-time course of study or training in a recognized educational institution. A child remains a potentially eligible beneficiary between ages 18 and 23, whether or not attending college or training, unless the retiree specifically requested that the child be dropped as an eligible beneficiary. Under option 2 (coverage for children only), a retiree could request that a child over 18 (except any child incapable of self-support because of mental or physical disability existing before age 18) be declared an ineligible beneficiary. A retiree who elected option 3 but who, on the date of retirement (1) had no eligible child, had the protection changed to option 1 (coverage for spouse only) or (2) had no eligible spouse, had the protection changed to option 2 (coverage for children only). Birth certificates were required for spouse and youngest child for option 3. When a retiree has option 3 (both spouse and children), and the spouse became ineligible through death or divorce (after retirement), protection would continue for eligible children at no cost to the retiree. Full retired pay is restored the month after the death or divorce of the spouse. The member could elect an annuity based on either a specific dollar amount or a percentage of gross retired pay. The total annuity, however, could not be greater than 50 percent nor less than 12-1/2 percent of the gross retired pay entitlement at the time of retirement. In no case could the annuity be less than \$25.

340102. Time of Election. Election to participate in RSFPP had to be made within specific time limitations based on provisions of law in effect at the time of election. (See Tables 34-1 through 34-4 of this volume.)

A. Elections had to be made before completion of 19 years of service for members who became entitled to retired pay on or after August 13, 1968, after making an election between October 4, 1961 and August 12, 1968.

B. Members who filed an election before August 13, 1968, could submit a written application to the Military Service concerned requesting that the election remain under the time-of-election provision by November 1, 1969. That is, the election was made before completing 18 years of service or 3 years before retirement.

340103. Valid Options. Members could elect one of three basic options, or a combination of two, to determine the RSFPP coverage desired for their beneficiaries. Supplement option 4, combined with any of the basic options, permits discontinuance of collection of costs when there are no longer any eligible beneficiaries.

A. Option 1 provides an annuity payable to or on behalf of a member's widow or widower. The annuity is payable until the death or remarriage of the beneficiary.

B. Option 2 provides an annuity payable to or on behalf of children as described in paragraph 330203 of this volume. The annuity is payable until no eligible beneficiaries or children survive.

C. Option 3 provides annuity payable to or on behalf of the widow or widower and children. The annuity is paid to the widow or widower until death or remarriage and,

thereafter, is divided in equal shares to or on behalf of the surviving eligible children. The member also may allocate a part of this option to surviving children of a previous marriage. The allotted amount may not exceed the equitable share for which such children would be eligible after the remarriage or death of the widow or widower.

D. **Multiple Option.** A combination of options 1 and 2 provides separate annuity checks for the member's widow or widower and child or children. Each annuity is payable until its respective annuitants are no longer eligible. The cost is determined separately for each annuity. The only combination permitted is option 1 and 2. Combinations of options 1 and 3, 2 and 3, or 1, 2, and 3 are improper. When options 1 and 2 are elected, and there ceases to be an eligible beneficiary under one of the options, the costs under that option terminate (if option 4 is in effect). If multiple options were elected, the total amount of the combined annuities could not exceed one-half or 50 percent of member's reduced retired pay.

E. **Option 4.** This supplemental option permits discontinuance of the collection of annuity costs from retired pay beginning with the first day of the month after that in which there are no eligible beneficiaries. Election of option 4 permits the retiree to withdraw from the plan. (See section 3402, below.)

1. Optional Election of Option 4. A member retiring before August 13, 1968, did not have to choose option 4. However, cost of coverage continues during the member's lifetime even though the beneficiary no longer exists. Public Law 90-485 (reference (ev)) permitted a member who failed to elect option 4 and who had no eligible beneficiaries on August 13, 1968, to elect option 4. To be valid, the election had to be postmarked before September 1, 1969. The election was effective the first day of the month after postmark date. For cost adjustment, see Chapter 36 of this volume.

2. Mandatory Inclusion of Option 4. Members retiring on or after November 1, 1968, who elected to participate in the plan, had to purchase option 4.

340104. Amount of Annuity

A. Before November 1, 1968, a member could elect an annuity based on one-half, one-fourth, or one-eighth of the reduced retired pay.

B. On or after November 1, 1968, a member could elect either a specified dollar amount or a percentage of his or her total monthly retired pay award, but not both. The total annuity elected (whether a percent or a dollar amount) could not be more than 50 percent, nor less than 12-1/2 percent of the gross retired pay at retirement and, in no case, less than \$25. If, at the member's retirement, the annuity amount elected was greater than 50 percent or less than 12-1/2 percent, it was adjusted down to 50 percent or up to 12-1/2 percent as appropriate. Members who became entitled to retired pay on or after November 1, 1968, but who had elected before November 1, 1968, were considered as having elected an annuity at 50 percent, 25 percent, or 12-1/2 percent of total retired pay rather than reduced retired pay.

340105. Ineligible or Non-Existent Beneficiary at Time of Retirement. When, on the effective date of retirement, there was no eligible beneficiary under the option elected, the election was ineffective and there were no deductions for cost of the annuity. Verification was made that there were no eligible beneficiaries. When option 3 or multiple option were elected, and a beneficiary changed by the time of retirement, the member's cost for coverage was adjusted. (See Chapter 36 of this volume.)

340106. Documentary Evidence of Election

A. The election of options under the RSFPP form was used to make an initial election, decline election coverage, modify or revoke a prior election, or change the designation of a beneficiary. All forms had to be signed and notarized or attested to by an officer. A copy of the form furnished by the retiree is valid for RSFPP purposes (if otherwise proper and timely) if the original cannot be located.

B. In the absence of a signed copy of RSFPP election, secondary evidence (including punchcard data that indicates the amount of the option and the time of execution) may be considered as evidence of an election. However, any determination of the validity of an election on the basis of secondary evidence depends upon the particular facts for the individual case, the nature of the secondary evidence, and the degree of certainty of the evidence to establish the facts.

C. An election made by a power of attorney for any member, competent or incompetent, is not valid.

D. If an election is found to be void for any reason except fraud or willful intent of the member, the member may make a corrected election at any time within 90 days after notification in writing. The corrected election is effective as of the date of the void election.

340107. Validity of Documentary Evidence. A valid election must be signed, witnessed, and delivered to the member's appropriate official not later than midnight on the day in which member completed 18 or 19 years of service. On some election forms, it is difficult to determine the date received by finance center officials. If the date of receipt by an official is not shown, consider the date of attestation as the receipt date. If no date is shown, use the postmark date as date of receipt. If there is no postmark date, use the date of receipt by the finance center activity, as stamped on the election.

340108. Mentally Incompetent Members

A. Whenever a member, because of mental incompetence, was incapable of making an election within the time limitations prescribed by the plan, the Secretary of the Military Department concerned (or designee) made an election on behalf of the member upon a request from the spouse or, if there was no spouse, by or on behalf of the child or children of the member.

B. A member later determined to be mentally competent may, within 180 days after such determination, change or revoke the election made on his or her behalf. This change or

revocation is effective on the date of the member's request for such change or revocation. Do not refund deductions previously made for premiums for coverage.

340109. Correction of Records. A member whose records have been corrected by the Secretary of the Military Service concerned may participate in the RSFPP as stipulated on the correction of records directive. The Secretary concerned also has the authority to correct an election, or change an option or a revocation, if the Secretary considers it necessary to correct an administrative error.

340110. Temporary Disability Retired List (TDRL)

A. Any member who was on the TDRL who elected one or more of the annuities specified in the plan, and who later was removed from the list for any reason other than permanent retirement, was entitled to a refund of cost over the cost of term insurance.

B. An election made by a member who was transferred from TDRL to PDRL continued in effect.

340111. Members Retiring Under 10 U.S.C. 12731 (reference (c)). Coverage for members of the Reserve Components, who would have accumulated enough service to be eligible for retired pay at age 60, had certain stipulations.

A. Before October 4, 1961, members must have elected under the plan before completion of 18 years of service. Modification or revocation after attaining age 55 would be valid only if it was submitted at least 5 years before retirement.

B. From October 4, 1961, through October 31, 1968, members must have elected under the plan before completion of 18 years of service. Modifications or revocations would be valid only if submitted at least 3 years before retirement.

C. From November 1, 1968, through September 20, 1972, members must have elected under the plan before their 58th birthday. Elections, modifications, or revocations submitted after age 58 would be valid only if made and submitted at least 2 years before retirement.

3402 WITHDRAWALS

340201. General Provisions. The Secretary of the Military Department concerned (or designee) may, upon application by the retired member, allow him or her to withdraw completely from participation. An approved withdrawal is not effective earlier than the first day of the seventh month beginning after the date application is received by the DFAS-Cleveland Center.

A. A member, who retired before November 1, 1968, must have elected option 4 to be eligible to withdraw from participation in the plan (see subparagraph 340103.E, above).

B. Members who retired on or after November 1, 1968, with automatic option 4, were automatically eligible to request withdrawal from the plan.

C. A request to withdraw from the plan is irrevocable, and a retired member who withdraws may never again participate in the plan.

Example: A retiree withdraws from the RSFPP (options 3 and 4) effective 7 months after retirement. Records were later corrected to show that the member elected options 1 and 2 more than 2 years before retirement. On this basis, the premium for coverage between the retirement date and the withdrawal date may be adjusted. The correction of records, however, does not void the withdrawal from the program.

D. Premiums for coverage continue unless a member submits a request to withdraw and an indebtedness accrues after retired pay is waived. RSFPP participants, who want to terminate their coverage when they waive retired pay to increase their civil service annuity, specifically must request withdrawal from the plan.

ELECTING OPTIONS ON OR BEFORE OCTOBER 31, 1953		
R U L E	A	B
	If a member's status was	then the member
1	an active member with less than 18 years of service	could have elected before completion of 18 years of service or November 1, 1954, whichever was later.
2	an active member with less than 18 years of service who is retired for physical disability before 18 years of service	could have made an election at time of retirement, and not later than 30 days after retirement date.
3	an active member who had completed more than 18 years of service for basic pay	could have elected within 1 year after the effective date of Public Law 83-239 (effective November 1, 1953).
4	already retired	could have elected before April 30, 1954.
5	an active member in status of missing, missing in action, interned in a neutral country, captured, beleaguered or besieged because of military operations and unable to make an election before completing 18 years of service for basic pay purposes	could have made election within 6 months after return to the jurisdiction of the Uniformed Service.

Table 34-1. Electing Options On or Before October 31, 1953

ELECTING OPTIONS BETWEEN NOVEMBER 1, 1953 AND OCTOBER 3, 1961		
R U L E	A	B
	If a member's status was	then the member
	1 an active member with less than 18 years of service for basic pay	must have made an election before completing 18 years of service or November 1, 1954, whichever was later.
	2 an active member with less than 18 years of service for basic pay purposes who is retired for physical disability before 18 years	could have made an election at time of retirement, and not later than 30 days after retirement.
	3 an active member who completed more than 18 years of service from November 1, 1953 through April 30, 1954	could have made the election before midnight of April 30, 1954.
	4 an active member who completed more than 18 years of service from May 1, 1954 through October 3, 1961	could have made the election before midnight of November 1, 1954.

Table 34-2. Electing Options Between November 1, 1953 and October 3, 1961

ELECTING OPTIONS BETWEEN OCTOBER 4, 1961 AND OCTOBER 31, 1968		
R U L E	A	B
	If a member's status was	then the member
	1 an active member with less than 18 years of service for basic pay purposes	must have made an election before completing 18 years of service or 3 years before retirement. If such election was not changed or revoked, it became effective immediately upon later retirement.
	2 active member retired for physical disability and awarded retired pay on or after October 4, 1961 and before completion of 18 years of service (and had not already made an election before October 4, 1961)	could have made an election at time of retirement. If not made earlier, not later than 30 days after retirement.
	3 an active member who completed more than 18 years of service for basic pay purposes during this period	could have made an election after completing 18 years of service if he or she had failed or declined to make an election before that time, but must have made the election at least 3 years before the date the member became entitled to receive retired pay.
4	changed whereby retired pay was granted retroactively, and member was otherwise eligible to make an election	could have made the election within 90 days after receiving notice that such pay had been granted.
5	missing, interned in a neutral country, assigned to isolated station, captured by hostile force, or beleaguered or besieged upon completing 18 years of service for basic pay purposes	Could have made the election within 1 year after member ceased to be assigned to that station or returned to the jurisdiction of the Military Service, and such election immediately became effective.

Table 34-3. Electing Options Between October 4, 1961 and October 31, 1968

ELECTING OPTIONS BETWEEN NOVEMBER 1, 1968 AND SEPTEMBER 20, 1972		
R U L E	A	B
	If a members status was	then the member
1	active member with less than 19 years of service for basic pay purposes	must have made an election not later than midnight on the day in which he or she completed 19 years of service or 2 years before retirement. Election was effective immediately upon later retirement.
2	active member who completed more than 19 years of service for pay purposes	must have made an election before 19 years of service was completed, or 2 years before retirement.
3	Missing, interned in a neutral country, assigned to isolated station, captured by hostile force, or beleaguered or besieged upon completing 19 years of service for basic pay purposes	could have made an election to become effective immediately, within 1 year after member ceased to be assigned to that station or returned to the jurisdiction of the Armed Forces.
4	changed whereby retired pay was granted retroactively, and member was otherwise eligible to make an election	could have made the election within 90 days after receiving notice that such pay had been granted.

NOTE: No retired member may elect coverage under Retired Serviceman's Family Protection Plan (RSFPP) after September 20, 1972.

Table 34-4. Electing Options Between November 1, 1968 and September 20, 1972